

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

YAIR JOAQUIN GRANADOS et al.,	§	
Plaintiffs,	§	
	§	
v.	§	
	§	CIVIL ACTION NO. 1:15-CV-00787-LY
	§	
THE COLISEUM, INC.	§	
d/b/a EL COLISEO,	§	
Defendant.	§	

**DEFENDANT’S NOTICE, PURSUANT TO PHASE ONE SCHEDULING ORDER,
OF OPPOSITION TO PLAINTIFFS’ MOTION FOR CONDITIONAL
CERTIFICATION OF COLLECTIVE ACTION UNDER 29 U.S.C. § 216(b)**

TO THE HONORABLE COURT:

The Coliseum, Inc. d/b/a El Coliseo (“Defendant”), pursuant to the Court’s Phase One Scheduling Order, hereby gives its Notice of Opposition to Plaintiffs’ Motion for Conditional Certification of a collective action under the Fair Labor Standards Act, 29 U.S.C. § 216(b) as follows:

1. On July 23, 2015, Plaintiffs originally filed this action in the County Court at Law No. 2 of Travis County, Texas (Cause No. C-1-CV-15-006139), alleging that Defendant violated provisions of the Fair Labor Standards Act, 29 U.S.C. § 201, et seq. (“FLSA”) and provisions of the Texas Minimum Wage Act, Chapter 62 of the Texas Labor Code.

2. On September 8, 2015, Defendant filed its Notice of Removal [1], invoking the Court’s federal question jurisdiction under 28 U.S.C. § 1331.

3. On November 4, 2015, the Court signed its Phase One Scheduling Order [14] (the “Scheduling Order”) regarding the Court’s consideration of Plaintiffs’ Motion for Conditional Certification of a collective action under § 216(b) of the FLSA (“Plaintiffs’

Motion” or the “Motion”).

4. Under the Scheduling Order, Defendant was required to notify Plaintiffs by November 20, 2015, whether it would oppose their Motion.

5. On November 18, 2015, Defendant informed Plaintiffs, in writing, of its opposition to the Motion for the following reasons:

- a. On November 10, 2015, and November 17, 2015, Defendant made written requests to Plaintiffs an Amended Complaint¹, with their claims pursuant to Federal pleading requirements, and any evidence supporting Plaintiffs’ Motion so that Defendant would have a reasonable opportunity to understand and evaluate the specific factual basis and quality of any evidence supporting Plaintiffs’ Motion for Defendant to evaluate its position on Plaintiffs’ Motion.
- b. As of the date of this Notice, Plaintiffs have only provided a four sentence summary of their Complaint. As this is the only basis Plaintiffs have provided Defendant by which to evaluate their Motion, Defendant must oppose Plaintiffs’ Motion.

6. When Defendant informed Plaintiffs of its opposition to their Motion, Defendant stated that it is willing to reconsider its position upon Plaintiffs providing additional factual information and evidence. Defendant remains willing to reevaluate its position upon Defendant’s receipt of Plaintiffs’ Complaint and any evidence supporting their proposed Motion.

¹ Since filing their Original Petition in state court, Plaintiffs’ counsel informed Defendants that their claims have changed based on additional investigation.
DEFENDANT’S NOTICE, PURSUANT TO PHASE ONE SCHEDULING ORDER, OF OPPOSITION TO PLAINTIFFS’ MOTION FOR CONDITIONAL CERTIFICATION OF COLLECTIVE ACTION UNDER 29 U.S.C. § 216(b) – Page 2

Respectfully submitted,

By:



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ATTORNEYS FOR DEFENDANT
THE COLISEUM INC D/B/A EL COLISEO

CERTIFICATE OF SERVICE

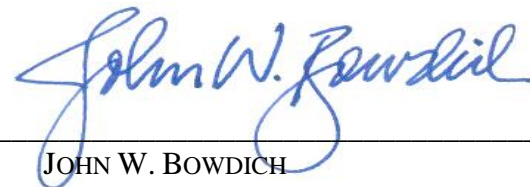
I hereby certify that on the 24th day of November, 2015, I electronically filed the foregoing document with the United States District Court for the Western District of Texas, Austin Division by using the CM/ECF system. I certify that the following parties or their counsel of record are registered as ECF Filers and that they will be served by the CM/ECF system:

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ATTORNEYS FOR PLAINTIFF

VIA: FACSIMILE (512)-692-2788

By:



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